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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

JANAINE EVE ELLIS,

Defendant and Appellant.

G029646

(Super. Ct. No. 00WF0467)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Thomas J. Borris, Judge. Dismissed.

Phillip I. Bronson, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Gary W. Schons, Assistant Attorney General, Peter Quon, Jr., and Marvin E. Mizell, Deputy Attorneys General, for Plaintiff and Respondent.

* * *

THE COURT:*

* Before Sills, P. J., Rylaarsdam, J., and O'Leary, J.

Janaine Eve Ellis was convicted of seven counts of nonviolent drug offenses and sentenced to prison. She does not contest the merits of the conviction, but asserts instead that she should have been sentenced to probation.

While this direct appeal was pending, Ellis filed a petition for a writ of habeas corpus. There, as here, Ellis argued she should have been sentenced to probation pursuant to the provisions of Proposition 36. On February 14, 2002, we granted the petition, and directed the superior court to order her release forthwith and to sentence her in accordance with Penal Code section 1210.1. Because the granting of the petition for habeas corpus moots the issues on the direct appeal, the appeal is dismissed.